

County Courts (Ireland) Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clases.

1. Service of process.
2. Proceedings for recovery of costs and balance of sum claimed.
3. Forgery of summons, &c. of county court.
4. Jurisdiction of judge within or without his districts.
5. Attachment of debts.
6. When documents produced from proper custody may be read without farther proof.
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15. Formation of divisions or districts for holding sessions.
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SCHEDULE.

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B I L L

INTITULED

An Act to amend the Law relating to County Courts in Ireland. A.D. 1902.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1.—(1.) Service of process of the county court shall be effected in the manner directed or permitted by law, unless otherwise ordered by the judge, who may order service to be substituted, or that service already had shall be deemed good service, as the case may be. Service of process
- 10 (2.) The plaintiff or party levying an execution may be served in the prescribed manner with an interpleader process under section one hundred and fifty of the Civil Bill Courts (Ireland) Act, 1851, in case he resides anywhere within the United Kingdom. 14 & 15 Vict. c. 57.
- 15 2. Where a defendant in any action, at any time after service of the civil bill upon him, pays to the plaintiff the entire amount sued for but without costs, the plaintiff may obtain a decree for the costs of such action; and, where a defendant pays a part only of the sum sued for, the plaintiff may continue the proceedings for the balance, and if he obtains a decree for the same or any part thereof
- 20 he shall be entitled to the costs of the action, to be taxed as if the decree were for the aggregate of the sum paid on account and the sum for which such decree was actually given. Proceedings for recovery of costs and balance of sum claimed.
- 25 3. Every person who forges any summons, process, decree, or order of the county court, or who serves or enforces any such forged summons, process, decree, or order, knowing the same to be forged, or delivers or causes to be delivered to any person any paper purporting to be a copy of any summons, process, decree, or order of the county court, knowing the same to be false, or who acts or professes to act under any false colour or pretence of the process
- 30 or authority of the county court, shall be guilty of a felony. Forgery of summons &c of county court. [See 51 & 52 Vict. c. 45 & 180.]

[Bill 224.]

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A.D. 1862.

Jurisdiction
of judge
within or
without his
districts
[See
34 & 35 Vict.
c. 43 s. 9.]

4. A judge shall, whether within the district of any of his courts or not, have jurisdiction in the prescribed manner to make any order, or exercise on an *ex parte* application any authority or jurisdiction, in any action, suit, matter, or proceeding, pending in any of the courts of which he is judge, which, if the same related to an action, suit, matter, or proceeding, pending in the High Court, might be given, made, or exercised by a judge of the High Court in chambers, and, with the consent of both parties to an action, suit, matter, or proceeding, to hear or decide any action, suit, matter, or proceeding, at any place either within or without any such district.

Attachment
of debts

5. Upon the application of any person having obtained a decree or order of a county court for the recovery by or payment to him of any sum of money, whether by way of debt or damages, a judge may, where the execution debtor resides within the jurisdiction of his court, make an order for the attachment of any debt owing or accruing to such execution debtor from any person residing within the same jurisdiction in like manner, subject to rules and orders under this Act, as orders for the attachment of debts are made by the High Court.

When
documents
produced
from proper
custody may
be read
without
further
proof.

6.—(1.) Where any documents, which would if duly proved be admissible in evidence, are produced to the court from the proper custody, they shall be read without further proof, if in the opinion of the judge they appear genuine, and if no objection is taken thereto.

(2.) If the admission of any documents so produced is objected to, the judge may adjourn the hearing for proof of the documents, and the party objecting shall pay the costs caused by such objection in case the documents are afterwards proved, unless the judge otherwise orders.

Renewal of
decree or
dismissal

7.—(1.) Subject to rules and orders under this Act, every decree and dismissal of a county court in any action, and every affirmance or reversal of such decree or dismissal, whether made before or after the commencement of this Act, save a decree for the possession of lands or tenements or an affirmance of such last-mentioned decree, shall be, in full force and effect for six years from the date of the decree or dismissal, or affirmance or reversal thereof, as the case may be, and it shall not be necessary to renew such first-mentioned decree or dismissal, or affirmance or reversal thereof, within the said period of six years unless there is some change in the party entitled to execution or liable thereto, or unless in other cases such renewal is prescribed.

(2.) Every renewal shall be made in the manner and upon the affidavit of such person as may be prescribed.

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8.—(1.) The liability to the payment of any debt, damages, and costs, respectively, which may be imposed by any decree or dismiss of a county court, or by any reversal or affirmance of any such decree or dismiss, shall be absolutely extinguished upon
5 the expiration of six years from the date of the decree or dismiss, affirmance or reversal, and shall not be capable of being enforced by any proceeding whatsoever.

(2.) Such decree, dismiss, reversal, or affirmance, shall not be revived or kept in force by any parol evidence, or promise to pay
10 the said debt damages or costs or any part thereof, or by any evidence of a part payment thereof: provided that, if the defendant executes any new security in writing for such debt or costs, such new security shall be of full force and effect in law.

Liability to debt or costs under decree or dismiss, or any reversal or affirmance thereof, to be extinguished in six years unless new security be given.

[See 14 & 15 Vict. c. 57. s. 144.]

9. If any person, dissatisfied with any decree, dismiss, or order,
15 whether adverse to him or in his favour, pronounced by any judge in the exercise of any jurisdiction conferred, whether before or after the passing of this Act, upon him by any Act relating to county courts, gives notice of appeal in the manner provided by law, and if after such notice is given the appeal is abated by the death,
20 marriage, or bankruptcy, of any of the parties before the hearing thereof, then, subject to rules and orders of the High Court, the appeal may be prosecuted within such time, upon such terms and conditions, and in such manner, as may be prescribed by such
25 rules and orders as aforesaid: provided that, unless and until such rules and orders are made, no such decree, dismiss, or order as last aforesaid shall be affected by the provisions of this section.

Provision of appeal after abatement by death, marriage, or bankruptcy.

10.—(1.) The judge, the Lord Chancellor, the Judge of Assize on Appeal, or any court or judge having cognizance of the matter,
30 may at all times amend all defects and errors in any proceeding in the county court, whether there is anything in writing to amend by or not, and whether the defect or error is that of the party applying to amend or not.

Amendment of proceedings.

[See 51 & 52 Vict. c. 43. s. 87.]

(2.) All such amendments may be made with or without costs and upon such terms as to the judge, the Lord Chancellor, the
35 Judge of Assize, or such court or judge as aforesaid, as the case may be, may seem just.

(3.) All such amendments as may be necessary for the purpose of determining the real question in controversy between the parties shall be made if duly applied for.

40 11. Notwithstanding anything in section sixty-one of the Civil Bill Courts (Ireland) Act, 1851, no process, decree, or dismiss, of any county court shall be null and void by reason only that the
[224.]

Omission or misstatement of address or residence

A D. 1902
of a party
not to render
process,
decree, or
dismiss *vid.*
14 & 15 Vict.
c. 57.

Composition
of rule-
making
authority.
[See 51 & 52
Vict. c. 43.
s. 164.]
49 & 41 Vict.
c. 56

Deposit of
moneys paid
into court.
[See 40 & 41
Vict. c. 56.
s. 39.]
[See 51 & 52
Vict. c. 43
s. 71.]

addition or last known place of residence of any of the parties is not stated, or is incorrectly stated, thereina, but such process, decree, or dismiss, or the proceedings thereunder, may be set aside either wholly or in part, or such process, decree, or dismiss may be amended or otherwise dealt with as the judge or judge of assize, as the case may be, may think fit.

12.—(1.) The chairmen to be associated with the Lord Chancellor as the rule-making authority, for the purposes of the County Courts (Ireland) Acts, 1851 to 1889, shall in all cases be nominated by the Lord Chancellor, and the President of the Incorporated Law Society of Ireland shall be an additional ordinary member of such rule-making authority, and that authority may make rules and orders for the purposes of the said Acts and of this Act, including rules and orders as to counterclaims to the extent of fifty pounds, tender of amends, lodgment of money in court, and the costs of adjournments of cases.

(2.) Section eighty-nine of the County Officers and Courts (Ireland) Act, 1877 (which provides for the submission to Parliament of rules and orders under that Act), shall apply with the necessary modifications to all rules and orders made under this section.

(3.) In any case not expressly provided for by the County Courts (Ireland) Acts, 1851 to 1889, or by this Act, or by rules of court made in pursuance of any of the said Acts, the general principles of practice in the High Court may be adopted and applied to actions, suits, matters, and proceedings, in the county courts.

13.—(1.) The Lord Chancellor, with the concurrence of the judge of each county court, may make rules and regulations for the deposit in the post office savings bank, or in any other bank, of moneys paid into such county court in pursuance of any Act, and every such deposit, if in the post office savings bank, may be made without restriction as to amount and without the declaration required of a depositor.

(2.) No money, when deposited under this Act, shall be paid out except upon an order of the Lord Chancellor, or of the judge of the court into which the money was paid.

(3.) Any person deriving any benefit under any moneys paid into the post office savings bank through the medium of a county court under the provisions of this or any other Act may nevertheless open an account in the post office savings bank or in any other savings bank in his own name, without being liable to any penalties imposed

by any Act or regulations in respect of the opening of accounts in two savings banks or of two accounts in the same savings bank. A.D. 1902.

(4.) In the application to Ireland of the Workmen's Compensation Acts, 1897 and 1900, the provisions of this section shall apply to money invested in the post office savings bank under those Acts. (a) & 61 Vict. c. 37.

14. The Treasury may, with the concurrence of the Lord Chancellor, make such arrangements as may seem requisite for the audit and report upon all accounts of stamp duties paid, fees received, moneys paid into court or lodged, or in any manner received by any officer of a county court under any Act now in force, or which may hereafter be enacted, relating to county courts. All such accounts shall be kept and exhibited or rendered in the prescribed manner. Audit of account or stamp duties, court fees, moneys paid into court, &c.

15.—(1.) In acting under section thirty-two of the Civil Bill Courts (Ireland) Act, 1851, the Lord Lieutenant may nominate and appoint for the holding of sessions the county districts as defined by section twenty-two of the Local Government (Ireland) Act, 1898, or baronies, half baronies, or parishes, or such parts of same respectively as may be specified by him. Formation of divisions or districts for holding sessions. 51 & 62 Vict. c. 37.

(2.) When by any Act, order, or rule, relating to civil bill courts or courts of general or quarter sessions of the peace in Ireland, any lands or premises are directed to be described in any proceedings as being situate in any barony, half-barony, or parish, it shall be sufficient to describe same by reference to the county district in which such lands or premises may be situate.

(3.) The provision of section thirty of the Civil Bill Courts (Ireland) Act, 1851, with reference to the continuance until altered of all divisions theretofore made for holding sessions, shall apply with the necessary modifications to all divisions made after the passing of that Act.

16. In this Act, unless the context otherwise requires,—
The expression "judge" means a county court judge and includes a recorder: Interpretation.

The expression "clerk of the peace" includes clerk of the Crown and peace, deputy clerk of the Crown and peace, and deputy clerk of the peace, and in Belfast may include the Registrar of Civil Bills:

The expression "action" means any proceeding commenced in a county court by ordinary civil bill, or by default process, or in ejectment or replevin:

A.D. 1902.

The expression "suit" means an equity suit :
 The expression "matter" means any proceeding commenced
 by petition ; and
 The expression "prescribed" means prescribed by rules and
 orders under this Act.

Short title
and con-
struction.

17. This Act may be cited as the County Courts (Ireland)
 Act, 1902, and shall be construed as one with the County Courts
 (Ireland) Acts, 1851 to 1889, and may be cited with those Acts as
 the County Courts (Ireland) Acts, 1851 to 1902.

Commence-
ment of Act

18. Subject as in this Act mentioned, this Act shall come into
 operation on the first day of January one thousand nine hundred
 and three.

Repeals.

19. The enactments specified in the schedule to this Act are
 hereby repealed to the extent in the third column of that schedule
 mentioned.

15

SCHEDULE.

A.D. 1902.

ACTS REPEALED.

Session and Chapter	Short Title.	Extent of Repeal.
5 14 & 15 Vict. c. 57.	The Civil Bill Courts (Ireland) Act, 1851.	Section sixty-one from "and in case" to "whosoever." Section one hundred and six. Section one hundred and thirty-nine, from the beginning of the section to "provided always that." Sections one hundred and forty to one hundred and forty-four, as far as unrepealed.
10 27 & 28 Vict. c. 90	The Civil Bill Courts Procedure Amendment Act (Ireland), 1864.	Sections forty-eight and fifty-eight.
15 40 & 41 Vict. c. 56.	The County Officers and Courts (Ireland) Act, 1877.	Section thirty-nine. Section seventy-nine, from "to be selected" to "such selection." In sections eighty-three and eighty-four the words "selected or"
20 60 & 61 Vict. c. 27.	The Workmen's Compensation Act, 1897.	Article (17) of the First Schedule.

County Courts (Ireland),

[H.L.]

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B I L L

INTRODUCED

An Act to amend the Law relating to
County Courts in Ireland.

(Brought from the Lords 15 May 1892.)

Ordered, by The House of Commons, to be Printed,
28 May 1892.

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[Bill 224.]